

BEFORE THE  
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER COMPANY ) DOCKET NO.  
and ) 04-0294  
AMEREN CORPORATION )  
)  
Application for authority to engage )  
in a reorganization, and to enter )  
into various agreements in )  
connection therewith, including )  
agreements with affiliated )  
interests, and for such other )  
approvals as may be required under )  
the Illinois Public Utilities Act )  
to effectuate the reorganization. )

Springfield, Illinois  
April 13, 2004

Met, pursuant to notice, at 2:30 P.M.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. EDWARD FITZHENRY  
MR. JOSEPH RAYBUCK  
MR. STEVEN SULLIVAN  
1901 Chouteau Avenue  
St. Louis, Missouri 63166

(Appearing on behalf of Ameren Corporation)

SULLIVAN REPORTING COMPANY, by  
Carla J. Boehl, Reporter  
Ln. #084-002710

## APPEARANCES:

(Cont'd)

MR. JOSEPH L. LAKSHMANAN  
500 South 27th Street  
Decatur, Illinois 62521-2200

(Appearing on behalf of Illinois Power  
Company)

MS. JANIS E. VON QUALEN  
MS. CARLA SCARSELLA  
MR. CARMEN FOSCO  
527 East Capitol Avenue  
Springfield, Illinois 62794

(Appearing on behalf of the Staff of the  
Illinois Commerce Commission)

MS. MYRA KAREGIANES  
Karegianes & Field, LLC  
208 South LaSalle Street, Suite 688  
Chicago, Illinois 60604

(Appearing on behalf of Illinois Electric  
Transmission Company, LLC)

MR. JAMES P. MOODY  
Cavanagh & O'Hara  
407 East Adams Street  
Springfield, Illinois 62705

(Appearing on behalf of IBEW Locals 51,  
309, 702 & 1306)

MR. E. GLENN RIPPPIE  
Foley & Lardner, LLP  
321 North Clark Street, Suite 2800  
Chicago, Illinois 60610

(Appearing on behalf of Exelon Companies)

## APPEARANCES:

(Continued)

MR. ERIC ROBERTSON  
Lueders, Robertson & Konzen  
1939 Delmar Avenue  
Post Office Box 735  
Granite City, Illinois 62040

(Appearing on behalf of the Illinois  
Industrial Energy Consumers)

MR. WILLIAM A. MURRAY  
Regulatory Affairs Manager  
800 East Monroe Street  
Springfield, Illinois 62757

(Appearing on behalf of the City of  
Springfield)

MR. CHRISTOPHER W. FLYNN  
MR. MICHAEL P. EARLEY  
Jones Day  
77 West Wacker, Suite 3500  
Chicago, Illinois 60601

(Appearing on behalf of Ameren  
Corporation via teleconference)

MR. OWEN MacBRIDE  
Schiff, Hardin & Waite  
6600 Sears Tower  
Chicago, Illinois 60606

(Appearing on behalf of Illinois Power  
Company via teleconference)

MS. JANICE DALE  
Assistant Attorney General  
100 West Randolph Street, 11th Floor  
Chicago, Illinois 60601

(Appearing on behalf of the Illinois  
Attorney General's Office via  
teleconference)

## APPPEARANCES:

(Continued)

MR. STEPHEN Y. WU  
208 South LaSalle Street, Suite 1760  
Chicago, Illinois 60604

(Appearing on behalf of the Citizens  
Utility Board via teleconference)

MR. WALTER C. HAZLITT  
Sonnenschein, Nath & Rosenthal  
233 South Wacker Drive  
Chicago, Illinois 60606

(Appearing on behalf of Midwest Generation  
EME, LLC, via teleconference)

MR. DAVID I. FEIN  
550 West Washington Boulevard, Suite 300  
Chicago, Illinois 60661

(Appearing on behalf of Constellation  
NewEnergy, Inc., via teleconference)

MR. MICHAEL D. HORNSTEIN  
MR. VICTOR CONTRACT  
Orrick, Herrington & Sutcliffe, LLP  
3050 K Street, NW  
Washington, DC 20007

(Appearing on behalf of Aquila Merchant  
Services, Inc., via teleconference)

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WITNESSESDIRECT CROSS REDIRECT RECROSS

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None.

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None.

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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 04-0294. This docket was initiated by Illinois Power Company and Ameren Corporation. The joint petitioners seek authority to engage in a reorganization and to enter into various agreements in connection therewith, all pursuant to the Public Utilities Act.

May I have the appearances for the record, please, and why don't we start in Springfield?

MR. FITZHENRY: For Ameren Corporation, Steven Sullivan, Joseph Raybuck and myself Edward Fitzhenry. Our business address is 1901 Chouteau Avenue, St. Louis, Missouri 63166.

MR. LAKSHMANAN: Joseph L. Lakshmanan, L-A-K-S-H-M-A-N-A-N, 500 South 27th Street, Decatur, Illinois 62521, appearing on behalf of Illinois Power Company.

MS. VON QUALEN: Janis VonQualen on behalf of the Staff of the Illinois Commerce Commission. Also on behalf of the Staff in Chicago are Carmen Fosco

1 and Carla Scarsella, 527 East Capitol Avenue,  
2 Springfield, Illinois 62701.

3 MS. KAREGIANES: Myra Karegianes on behalf of  
4 Illinois Electric Transmission Company, 208 South  
5 LaSalle, Chicago, Illinois 60604.

6 MR. MOODY: Jim Moody with Cavanagh and O'Hara  
7 on behalf of IBEW Local Unions 51, 309, 702 and  
8 1306. Our address is 407 East Adams Street,  
9 Springfield, Illinois.

10 JUDGE ALBERS: What were those local numbers  
11 again?

12 MR. MOODY: IBEW Locals 51, 309, 702 and 1306.

13 JUDGE ALBERS: Okay. Thank you.

14 MR. RIPPPIE: Glenn Rippie on behalf of the  
15 Exelon Companies. My firm is Foley and Lardner, 321  
16 North Clark Street, Chicago, Illinois 60610.

17 JUDGE ALBERS: Mr. Robertson, you are just in  
18 time for an appearance.

19 MR. ROBERTSON: Eric Robertson, Lueders,  
20 Robertson and Konzen, P.O. Box 375, 1939 Delmar,  
21 Granite City, Illinois 62040, on behalf of the  
22 Illinois Industrial Energy Consumers.

1           MR. MURRAY: William Murray, Regulatory Affairs  
2           Manager, City of Springfield, 800 East Monroe,  
3           Springfield, Illinois 62705.

4           JUDGE ALBERS: Any others in Springfield?  
5           Okay. How about Chicago?

6           MR. FLYNN: Christopher W. Flynn and Michael  
7           Earley, E-A-R-L-E-Y, from Jones Day, 77 West Wacker,  
8           Suite 3500, Chicago, Illinois 60601, on behalf of  
9           Ameren Corporation.

10          MR. MacBRIDE: Owen MacBride, M-A-C-B-R-I-D-E,  
11          6600 Sears Tower, Chicago, Illinois 60606, appearing  
12          on behalf of Illinois Power Company.

13          MS. DALE: Janice Dale on behalf of the  
14          Illinois Attorney General's office, 100 West  
15          Randolph Street, Chicago, Illinois 60601. Your  
16          Honor, Mark Kaminski and Susan Satter are appearing  
17          on the list to intervene. Mr. Kaminski is on a  
18          medical emergency and Ms. Satter is out of town. If  
19          you want, I can enter an appearance.

20          JUDGE ALBERS: What was that last thing you  
21          said?

22          MS. DALE: Mr. Kaminski's name and Ms. Satter's



1 name appears on the Commission list to intervene.  
2 Mine does not. But Mr. Kaminski had a medical  
3 emergency and Ms. Satter is out of town, so I am  
4 standing in for the AG's appearance. I can put in a  
5 formal appearance.

6 JUDGE ALBERS: That's fine. Is it Ms. Satter  
7 and Mr. Kaminski that will be handling this after  
8 today?

9 MS. DALE: Yes.

10 JUDGE ALBERS: That's fine.

11 MR. WU: Steve Wu appearing on behalf of the  
12 Citizens Utility Board, 208 South LaSalle Street,  
13 Suite 1760, in Chicago, Illinois 60604.

14 MR. HAZLITT: For Midwest Generation, Walter  
15 Hazlett with Sonnenschein, Nath and Rosenthal, 8000  
16 Sears Tower, Chicago, Illinois. Also with me today  
17 is Dan McKennet (sp).

18 MR. FEIN: David Fein on behalf of  
19 Constellation NewEnergy, Inc., 550 West Washington  
20 Boulevard, Suite 300, Chicago, Illinois 60661.

21 Those are all the appearances, I believe,  
22 in Chicago.

1 JUDGE ALBERS: And in D.C.?

2 MR. HORNSTEIN: This is Michael Hornstein,  
3 H-O-R-N-S-T-E-I-N, with Victor Contract, Orrick,  
4 Herrington & Sutcliffe, 3050 K Street, Northwest,  
5 Washington, D.C., 20007, on behalf of Aquila, Inc.,  
6 and I would also like to enter the appearance of Tom  
7 Fleener, F-L-E-E-N-E-R, with Aquila, Inc., address  
8 20 West 9th Street, Kansas City, Missouri 64105.

9 JUDGE ALBERS: Are there any others wishing to  
10 enter an appearance?

11 MS. KAREGIANES: May I just say that with me  
12 today also is Sharon Heaton, general counsel with  
13 Electric Trans.

14 JUDGE ALBERS: Thank you. That being the case  
15 then, let the record reflect that there are no  
16 others wishing to enter an appearance.

17 Those of you who have not filed a petition  
18 to intervene yet, is it your intent to do so? And,  
19 Mr. Hornstein, I believe from our conversation  
20 earlier today you indicated that that was your  
21 intent, was to file?

22 MR. HORNSTEIN: Yeah, I am sorry. I spoke with

1 my colleague Victor Contract. It is the intention  
2 of Aquila to submit a motion to intervene which will  
3 be submitted by overnight mail this evening.

4 JUDGE ALBERS: Okay. Does the City of  
5 Springfield?

6 MR. MURRAY: The City has filed today.

7 JUDGE ALBERS: I believe that covers it then.  
8 As far as -- oh, one other question, is everyone who  
9 is participating then willing to accept service in  
10 future by e-mail?

11 (No objections.)

12 As far as preliminary matters, I am going  
13 to go through the petitions to intervene that I have  
14 received so far. I have got a petition to intervene  
15 from Constellation New Energy, Inc., Citizens  
16 Utility Board, Exelon Companies, the Attorney  
17 General, Air Products and Chemical Company, U.S.  
18 Steel Company, International Steel Group, Marathon  
19 Ashland Petroleum, LLC, A.E. Staley Manufacturing  
20 Company, and University of Illinois as the Illinois  
21 Industrial Energy Consumers.

22 MR. ROBERTSON: That's correct.

1           JUDGE ALBERS: Illinois Electric Transmission  
2           Company and Midwest Generation EME, LLC. Is there  
3           any objection to any of these petitions to  
4           intervene?

5           MR. MacBRIDE: Judge Albers, this is Owen  
6           MacBride. Illinois Power does not have any  
7           objection to any of the petitions to intervene. I  
8           note that in the petition to intervene filed by  
9           Illinois Electric Transmission Company, there are a  
10          number of substantive allegations that we would like  
11          the record to show that, by not objecting to that  
12          petition to intervene, we are not indicating our  
13          agreement with the allegations in that petition.

14          JUDGE ALBERS: That's fine. Understood. Any  
15          other comments or objection?

16          MR. ROBERTSON: Just one. I believe we are  
17          considering the possibility of refiling for the  
18          University of Illinois as a separate entity based on  
19          a policy that they have, and that may be forthcoming  
20          from us. Hopefully, nobody will object to that  
21          procedure because it doesn't change their  
22          participation any.

1 JUDGE ALBERS: Okay. Well, thank you. Hearing  
2 no objection then, the petitions to intervene that I  
3 read off have been granted and I will rule on any  
4 other ones that I receive at a later time.

5 Any other preliminary matters? Okay.  
6 Hearing none, the purpose of today's hearing is to  
7 set a schedule in this matter. I will note that the  
8 petitioner's have requested an earlier completion  
9 than what the statute allows. So I don't know if  
10 that is going to be contested or not, but I am  
11 willing to hear what everyone has to say.

12 So it might be more fruitful to go off the  
13 record at this point and discuss scheduling. That's  
14 fine. If anyone wants to say anything about the  
15 schedule on the record, please do so now. Hearing  
16 no comments --

17 MS. KAREGIANES: Excuse me, I am sorry, are we  
18 addressing first the request to expedite the  
19 schedule?

20 JUDGE ALBERS: Well, at this point I don't  
21 know. Are there objections then? Let me start with  
22 that.

1           MS. DALE: The Attorney General's office would  
2 like to make a statement about that Your Honor. I  
3 don't know if anybody else would.

4           JUDGE ALBERS: Go ahead.

5           MR. MacBRIDE: Well, Judge, we have a schedule  
6 proposed. Maybe if people listen to the schedule,  
7 they may or may not have an objection to the  
8 schedule. Whether they had an objection in general  
9 to the request for an expedited order, I mean let me  
10 suggest we go off the record and just lay our  
11 schedule out. And then if people like that or don't  
12 like that, then maybe we can get back to the  
13 question of the expedited request for approval.

14          MS. DALE: That's okay.

15          JUDGE ALBERS: Okay. We will go ahead and go  
16 off the record then and hear Mr. MacBride's  
17 schedule.

18                               (Whereupon there was  
19                               then had an  
20                               off-the-record  
21                               discussion.)

22          JUDGE ALBERS: Back on the record. We had

1 discussed various options as far as scheduling in  
2 this matter. It appears at this time that it might  
3 be prudent to not set an entire schedule. We have  
4 discussed setting a status hearing for May 26 at  
5 10:00 a.m. at which time we would discuss any  
6 potential discovery problems or at least find out  
7 whether there are none, hopefully.

8           Thereafter, we have tentatively set June 22  
9 as a due date for Staff and Intervenor direct  
10 testimony. Following that, a couple different  
11 tracks have been proposed. Under one, if possible  
12 the Company would want to respond to the direct  
13 testimony and will simply indicate such. In that  
14 situation we would have an evidentiary hearing  
15 relatively soon thereafter. We have tentatively set  
16 aside July 19, 20 and 21 as days on which to have  
17 such an evidentiary hearing.

18           A second track would consist of there being  
19 disputed issues or at least the companies wanting to  
20 file some rebuttal with Staff and Intervenor on  
21 June 22. In light of that, it would also seem  
22 prudent then to have a status hearing on June 25 at

1       9:30 a.m. At that status hearing we would find out  
2       whether or not the joint applicants intend to submit  
3       rebuttal or not. In the event there is rebuttal  
4       testimony, that would suggest that there may also be  
5       rebuttal from Staff and Intervenor and perhaps  
6       surrebuttal from the applicants. By that time that  
7       would get us into August theoretically for an  
8       evidentiary hearing, and we have tentatively set  
9       aside the weeks of August 9 and August 16 for the  
10      evidentiary hearings in this matter.

11               I will also mention -- well, before I get  
12      into this, is there any other comments or concerns  
13      about the schedule we have set thus far?

14               MS. KAREGIANES: Other than I would like to  
15      state on the record that Illinois Electric  
16      Transmission Company is opposed to the expedited  
17      schedule. As we discussed off the record, there is  
18      a lawsuit pending in federal court currently. There  
19      is a motion for partial summary judgment that is  
20      also pending. The request for expedited treatment  
21      by the applicants was premised on possible confusion  
22      on employees as well as the public with regard to



1 taking the eleven months to complete this particular  
2 transaction or for the Commission to enter an order.  
3 We are stating that that confusion could very well  
4 continue on in the event that there is a favorable  
5 ruling on behalf of Illinois Electric Transmission  
6 Company from the federal court and it may diminish,  
7 very well diminish, such confusion if the schedule  
8 extended the eleven months statutory time frame.

9 JUDGE ALBERS: Are there any others that want  
10 to comment on what we have done so far? I do want  
11 to note for the record and make clear that in  
12 setting these dates we have, I am not adopting any  
13 particular overall schedule. At this time we may  
14 find ourselves having to finish the complete case in  
15 September, it may be in December or we may run all  
16 the way into February of '05 as is permitted by the  
17 statutes. So I just want to make that clear.

18 And I guess at this time I will also  
19 reiterate the comments I made off the record as far  
20 as what may impact the timing of this from my  
21 perspective. Some of the dates that have been  
22 suggested have very quick filing dates or stated

1 another way there is a lot of quick turnaround times  
2 for some of the filings. Nothing inherently wrong  
3 with that in my mind, but to the extent that it  
4 detracts from the quality of the work that we get,  
5 if I do find myself having to write a proposed order  
6 resolving contested issues, it may take me that much  
7 longer then to sort out what the issues are, what  
8 people's positions are, which would then simply  
9 delay the overall schedule. And again, given the  
10 staffing situation here, if there are other matters  
11 that are assigned to me that have deadlines that  
12 precede the deadline in this case, those will have  
13 to take a priority. There is not much I can do  
14 about that.

15 Does anybody else have any other questions  
16 or concerns about the scheduling so far?

17 MS. VON QUALEN: Judge, in light of this  
18 scheduling, Staff would request a two-week  
19 turnaround time for DRs.

20 JUDGE ALBERS: Is that a request that I mandate  
21 a two-week turnaround time?

22 MS. VON QUALEN: Yes, it is.

1           MR. FITZHENRY: Let me respond, Your Honor. It  
2           is certainly Ameren's intention to comply with a  
3           14-day turnaround. I would ask you not to mandate a  
4           turnaround time simply because we don't know all  
5           that is going to be asked, simply because we have  
6           one witness that will be deluged with 50 or 60 parts  
7           and expecting him to respond to every one of them  
8           within that same 14-day turnaround period would be  
9           unreasonable. But I, again, state for the record  
10          that that's our plan, that's our intention and that  
11          we will work with the parties to insure a quick  
12          turnaround of discovery.

13          MR. RIPPPIE: I gather it is also the  
14          applicant's intention to comply with best efforts  
15          standard for a similar turnaround time on reasonable  
16          quantities of intervenor discovery?

17          MR. FITZHENRY: Yes.

18          JUDGE ALBERS: In light of those concerns, I am  
19          hesitant to mandate a particular turnaround time,  
20          given that we do not know -- I certainly do not  
21          know -- what is going to be asked of who and what  
22          those particular questions would be and how much

1 work it would be to respond to them. So at this  
2 time I would ask the parties to use their best  
3 efforts to respond to DRs within the time frame  
4 requested. If there are problems with discovery in  
5 any sense of the word, please let me know as soon as  
6 possible so we can get those taken care of. Please  
7 do not wait until May 27 if you believe there are  
8 serious concerns with discovery in this case.

9 Is there any other thoughts or comments on  
10 the discovery process so far?

11 MR. ROBERTSON: Just one. I take it you don't  
12 want us to serve copies of the DRs on you?

13 JUDGE ALBERS: I would prefer that you not send  
14 copies of the DRs on me.

15 MR. ROBERTSON: So just on one another.

16 JUDGE ALBERS: Yes.

17 Is there anything else to put on the  
18 record? Anyone? Okay. I can't think of anything  
19 else. I don't hear anything from anyone else. So  
20 with that I will continue this to May 26 at 10:00  
21 a.m.

22 (Whereupon the hearing

in this matter was  
continued until May 26,  
2004, at 10:00 a.m. in  
Springfield, Illinois.)